

Message Text

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TO AMEMBASSY MONTEVIDEO IMMEDIATE

C O N F I D E N T I A L STATE 241088

E.O. 11652: GDS

TAGS: SHUM, MASS, UY

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

SEPTTEL DISCUSSED REQUEST BY SENATOR HUMPHREY FOR BASIC HUMAN RIGHTS DATA. FOLLOWING IS DRAFT OF HUMAN RIGHTS REPORT ON URUGUAY FOR EMBASSY'S COMMENTS AND CLEARANCE. QUOTE:

I. POLITICAL SITUATION.

ON JUNE 12, 1976, PRESIDENT JUAN MARIA BORDABERRY, DEMOCRATICALLY ELECTED IN NOVEMBER 1971, WAS REMOVED FROM OFFICE IN A QUIET COUP BY THE ARMED FORCES. BORDABERRY HAD PRESIDED OVER A CIVILIAN GOVERNMENT WHICH, IN COOPERATION WITH THE MILITARY, SUCCESSFULLY CONTROLLED ONE OF THE WORLDS' BEST ORGANIZED URBAN GUERRILLA MOVEMENTS. DURING THIS PROCESS, A STATE OF INTERNAL WAR WAS APPROVED
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BY THE CONSTITUTIONALLY ELECTED CONGRESS AT THE EXECUTIVE BRANCH'S REQUEST UNDER WHICH CIVIL RIGHTS WERE RESTRICTED. LATER THE EXECUTIVE AND MILITARY CLOSED CONGRESS, A COUNCIL OF STATE WAS APPOINTED IN ITS PLACE, THE STATE OF INTERNAL

WAR WAS REPLACED BY A NATIONAL SECURITY LAW, AND THE INFLUENCE OF THE MILITARY IN ALL FACETS OF THE NATION'S LIFE WAS INCREASED.

MR. APARICIO MENDEZ WAS SWORN IN AS PRESIDENT FOR A FIVE YEAR TERM ON SEPTEMBER 1. THE MENDEZ' ADMINISTRATION IS EXPECTED TO CONTINUE THE POLICIES OF NATIONAL RECONSTRUCTION ADOPTED UNDER BORDABERRY. INITIAL GOVERNMENT ANNOUNCEMENTS INDICATE NATIONAL SECURITY WILL REMAIN ONE OF THE CHIEF CONCERNS BUT THAT THE MEASURES FOLLOWED TO FIGHT SUBVERSION WILL BE REVIEWED WITH THE INTENTION OF EXTENDING AND INSURING DUE PROCESS GUARANTEES FOR PERSONS ARRESTED UNDER THE NATIONAL SECURITY LAW.

THE MENDEZ GOVERNMENT, FOR THE FIRST TIME, ALSO RELEASED FIGURES INDICATING THE TOTAL NUMBER OF SUBVERSIVES RELEASED, PAROLED, OR EXILED SINCE 1972; HOWEVER, IT ALSO ANNOUNCED THE CASSATION OF THOUSANDS OF PERSONS. THERE ARE HIGHLY CONSERVATIVE ELEMENTS, MOST NOTABLY WITHIN THE MILITARY, WHO DO NOT FAVOR LIBERALIZATION EFFORTS. THE MODERATES, THUS FAR, HAVE MAINTAINED SOME INFLUENCE DURING THE SHIFTS OF PRESIDENTS AND RETAIN THE ABILITY TO CONTINUE PUSHING FOR MODEST IMPROVEMENTS IN THE HUMAN RIGHTS AREA.

II. LEGAL SITUATION

THE URUGUAYAN CONSTITUTION PROVIDES GUARANTEES FOR A WIDE RANGE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS. HOWEVER, BEGINNING IN 1972, AS A RESULT OF PERCEIVED THREATS TO THE COUNTRY'S SECURITY AND ECONOMIC WELL-BEING, INDIVIDUAL RIGHTS AND GUARANTEES FOR PERSONS ALLEGED TO BE SUBVERSIVES HAVE BEEN CURTAILED.

THE PRESIDENT, ACTING ON A RESOLUTION BY CONGRESS BASED ON CONSTITUTIONAL PROVISIONS, DECLARED A STATE OF INTERNAL WAR IN 1972 TO GIVE THE GOVERNMENT AUTHORITY TO COMBAT INDIVIDUALS AND GROUPS WHO "CONSPIRE AGAINST THE CONFIDENTIAL

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COUNTRY." AT THE SAME TIME, SOME INDIVIDUAL CONSTITUTIONAL GUARANTEES WERE SUSPENDED. THE NATIONAL SECURITY LAW WHICH SUPERSEDED THESE DECREES FURTHER CIRCUMSCRIBED INDIVIDUAL RIGHTS AND EMPOWERED MILITARY COURTS TO CONDUCT PRE-TRIAL INVESTIGATIONS AND ARRAIGN PERSONS ACCUSED OF TERRORISM, SUBVERSION, AND OTHER CRIMES AGAINST THE NATION. THE PRESIDENT IN 1973, ACTING ON HIS OWN AUTHORITY UNDER CONSTITUTIONAL PROVISIONS, EXTENDED THE GOVERNMENT'S AUTHORITY TO SUSPEND INDIVIDUAL GUARANTEES AND TO ARREST PERSONS DEEMED A DANGER TO SECURITY AND PUBLIC ORDER.

THE COUNCIL OF STATE, WHICH TOOK OVER LEGISLATIVE

FUNCTIONS AFTER THE DISSOLUTION OF CONGRESS IN 1973,
APPROVED MEASURES OUTLAWING THE URUGUAYAN COMMUNIST PARTY

AND OTHER MARXIST AND EXTREMIST PARTIES AND ORGANIZATIONS,
DISSOLVED THE COMMUNIST-LED LABOR CENTRAL, PROVIDED FOR
THE TEMPORARY ATTACHMENT OF PROPERTY USED TO CARRY OUT
CRIMES AGAINST THE NATION AND EXTENDED THE JURISDICTION
OF MILITARY COURTS TO COVER THE TRIAL AND SENTENCING OF
PERSONS ACCUSED OF TERRORISM, SUBVERSION, AND OTHER
CRIMES AGAINST THE NATION.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN
RIGHTS.

A. INTEGRITY OF THE PERSON

ARTICLE 3: THE URUGUAYAN CONSTITUTION GUARANTEES
THE INVIOABILITY OF LIFE, LIBERTY AND SECURITY OF
PERSONS AND ABOLISHES THE DEATH PENALTY. REPORTS OF
ABUSES IN THIS AREA HAVE ARISEN IN CONJUNCTION WITH
ARRESTS BASED UPON AUTHORITY DERIVED FROM NATIONAL SEC-
URITY LAWS AND DECREES.

ARTICLE 5: TORTURE AND OTHER FORMS OF CRUEL, IN-
HUMANE, AND DEGRADING TREATMENT OR PUNISHMENT ARE PRO-
HIBITED BY THE CONSTITUTION. EXCESSES IN THE EARLY
STAGES OF DETENTION DURING THE INITIAL INVESTIGATION
WERE WIDESPREAD AT THE HEIGHT OF THE ANTI-TUPAMARO
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ACTIVITY AND SOME ABUSES STILL OCCUR. HIGH GOVERNMENT
OFFICIALS STATE THAT SUCH ABUSES ARE CONTRARY TO OFFICIAL
POLICY AND ARE NOT SANCTIONED BY THE GOVERNMENT. IN
SOME INSTANCES INQUIRIES HAVE BEEN MADE TINTO ALLEGATIONS
OF ABUSE AND DISCIPLINARY ACTION HAS BEEN TAKEN AGAINST
THOSE RESPONSIBLE.

ARTICLE 8: IN CASES WHICH DO NOT COME UNDER
NATIONAL SECURITY LAWS AND DECREES, URUGUAYANS MAY TURN
TO THE COURTS FOR RELIEF FROM VIOLATIONS OF THEIR
RIGHTS. A COMMITTEE OF THE COUNCIL OF STATE HAS
RESPONSIBILITY TO INVESTIGATE REPORTS OF HUMAN RIGHTS
VIOLATIONS WHICH OCCUR IN SECURITY CASES UNDER MILITARY
JURISDICTION.

ARTICLE 9: URUGUAYANS ACCUSED OF CIVIL AND
CRIMINAL VIOLATIONS UNRELATED TO SECURITY MATTERS STILL
ENJOY CONSTITUTIONAL GUARANTEES AGAINST ARBITRARY ARREST
AND DETENTION. BUT THE GUARANTEES OF INVIOABILITY OF
PERSONS FROM ARREST EXCEPT FOR PROBABLE CAUSE, HABEAS
CORPUS AND SPEEDY ARRAIGNMENT HAVE BEEN SUSPENDED FOR
PERSONS SUSPECTED OF TERRORISM, SUBVERSION AND OTHER

CRIMES AGAINST THE NATION.

SOME PERSONS, PARTICULARLY SINCE A SERIES OF ARRESTS OF ALLEGED URUGUAYAN COMMUNIST PARTY MEMBERS, HAVE SOUGHT ASYLUM IN FOREIGN EMBASSIES AND SOME OF THOSE HAVE BEEN PERMITTED TO GO INTO EXILE. THE GOVERNMENT EVIDENTLY DOES NOT USE INVOLUNTARY EXILE AS A PUNISHMENT.

ARTICLE 10: NATIONAL SECURITY CASES ARE SUBJECT TO THE MILITARY COURT SYSTEM FOR PRE-TRIAL INVESTIGATION-S, ARRAIGNMENT, TRIAL AND SENTENCING.

ARTICLE 11: THE GUARANTEE OF A FAIR TRIAL IS RESPECTED IN URUGUAY IN THE VAST MAJORITY OF CASES IN BOTH CIVILIAN AND MILITARY COURTS. HOWEVER, IN THE LATTER, DEFENSE LAWYERS ARE NOT PERMITTED ACCESS TO THEIR CLIENTS IN PRE-TRIAL PROCEEDINGS BUT ARE PERMITTED ACCESS AT LATER STAGES OF JUDICIAL PROCEEDINGS. WITNESSES CAN BE CALLED AND THERE IS RIGHT OF APPEAL. MILITARY CONFIDENTIAL

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TRIALS ARE USUALLY CLOSED TO THE PUBLIC BUT INTERESTED PERSONS MAY ATTEND. THERE ARE ABOUT 200 PERSONS WHO ARE HELD WITHOUT CHARGES OR TRIAL.

B. OTHER FREEDOMS

URUGUAY IS LARGELY FREE FROM DISCRIMINATION BASED ON RACE, RELIGION AND SEX. IN GENERAL, URUGUAYANS ARE FREE TO MOVE WITHIN THE COUNTRY AND TO GO ABROAD BUT SOME LIMITATIONS MAY BE IMPOSED ON MOVEMENT ON NATIONAL SECURITY GROUNDS.

URUGUAYANS HAVE THE RIGHT TO OWN PROPERTY BUT THE GOVERNMENT CAN TEMPORARILY EMBARGO PROPERTY OF PERSONS ACCUSED OF CRIMES AGAINST THE NATION. PROPERTY ACTUALLY USED OR INTENDED FOR USE IN SUCH CRIMES CAN BE CONFISCATED OUTRIGHT.

THE CONSTITUTIONAL GUARANTEE OF FREEDOM OF RELIGION IS RESPECTED IN URUGUAY. HOWEVER, PHILOSOPHIES ESPOUSED BY RELIGIOUS ORGANIZATIONS OR OTHERS WHICH ARE CONSIDERED SUBVERSIVE MAY BE DEALT WITH UNDER SECURITY LAWS. FREEDOM OF EXPRESSION IS RESTRICTED. THERE IS CENSORSHIP, PARTICULARLY OF EXPRESSION OF MARXIST OR EXTREMIST PHILOSOPHIES THOUGH IT IS NEITHER CONSISTENT NOR COMPLETE. THE RIGHT OF ASSEMBLY IS RESTRICTED UNDER NATIONAL SECURITY REQUIREMENTS.

IV. OTHER HUMAN RIGHTS REPORTING

AMNESTY INTERNATIONAL'S 1974-75 ANNUAL REPORT STATED

THAT "POLITICAL DETAINEES LACK LEGAL PROTECTION AND WERE SYSTEMATICALLY TORTURED DURING THE FIRST PERIOD FOLLOWING

THEIR ARREST.' AMNESTY'S 1974 REPORT ON TORTURE INCLUDED ALLEGATIONS OF TORTURE IN URUGUAY. THE REPORT STATED THAT THE "URUGUAYAN GOVERNMENT HAS NOT DENIED THE EXISTENCE OF TORTURE." IN FEBRUARY 1976 AMNESTY INTERNATIONAL BEGAN AN INTERNATIONAL CAMPAIGN AGAINST ARBITRARY ARREST AND TORTURE IN URUGUAY. AMNESTY INTERNATIONAL ALLEGED THAT THERE CONTINUES TO BE WIDESPREAD CONFIDENTIAL

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AND SYSTEMATIC TORTURE, AND THAT AT LEAST 5,000 POLITICAL PRISONERS ARE CURRENTLY BEING DETAINED.

THE INTERNATIONAL COMMISSION OF JURISTS AND AMNESTY INTERNATIONAL ISSUED A REPORT ON JUNE 17, 1974 SUMMARIZING THE PROCEDURES USED IN THE DETENTION OF SUSPECTS UNDER THE PROVISIONS OF THE LAW OF STATE SECURITY AND INTERNAL ORDER AND CHARGING MISTREATMENT. TWO SUPPLEMENTARY REPORTS HAVE BEEN ISSUED BY THE ICJ, CHARGING THAT THERE HAD BEEN A DETERIORATION OF THE HUMAN RIGHTS SITUATION. THE ICJ'S JUNE 1976 REVIEW STATES THAT THE SITUATION IN URUGUAY CONCERNING HUMAN RIGHTS IS VERY GRAVE.

THE INTER-AMERICAN HUMAN RIGHTS COMMISSION PUBLISHED IN ITS ANNUAL REPORT FOR 1975, AS SUBMITTED TO THE OAS IN JUNE 1976, 22 COMPLAINTS COVERING AT LEAST 290 INDIVIDUAL CASES IN URUGUAY. ALMOST ALL THESE COMPLAINTS INVOLVE MISTREATMENT OF PRISONERS AND/OR ARBITRARY OR PROLONGED DETENTION BETWEEN 1972 AND 1975. THE REPORT DETAILS THE INHRC REQUESTS TO THE GOVERNMENT OF URUGUAY FOR INFORMATION COVERING THESE CASES AND URUGUAYAN RESPONSES.

THE ILO RECEIVED URUGUAYAN GOVERNMENT PERMISSION TO INVESTIGATE ALLEGED VIOLATIONS OF TRADE UNION FREEDOMS IN URUGUAY; AN INVESTIGATION OCCURRED JUNE 20-JULY 1, 1975 BY A LAWYER DESIGNATED BY THE ILO'S COMMITTEE ON FREEDOM OF ASSOCIATION. THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS ARE CONTAINED IN ILO GOVERNING BODY DOCUMENT GB 198/11/13, 198TH MEETING, GENEVA, NOVEMBER 1975. IN GENERAL, THE COMMITTEE RECOGNIZED THAT THE PRESENT LABOR SITUATION WAS THE RESULT OF THE GRAVE ECONOMIC, SOCIAL AND POLITICAL CRISIS THAT THE COUNTRY SUFFERED PRIOR TO 1973 AND THAT THE GOVERNMENT HAD RESTRICTED THE ACTIVITIES OF THE LABOR MOVEMENT IN ORDER TO ELIMINATE POLITICAL OPPOSITION TO ITS POLICIES, PARTICULARLY ITS ECONOMIC POLICIES. THE COMMITTEE NOTED THAT ORGANIZED LABOR HAD BEEN POLITICALLY ACTIVE, BUT SAID THAT IT IS NECESSARY TO DIFFERENTIATE BETWEEN

PURELY POLITICAL ACTIVITIES OF ORGANIZED LABOR AND TRADE
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UNION ACTIVITIES AND IT CALLED ON THE GOVERNMENT TO DEVELOP LEGISLATION WHICH WOULD PERMIT NORMAL TRADE ;NION ACTIVITIES. IN THE ILO'S GOVERNING BODY DOCUMENT GB 200/9/25, 200TH MEETING, GENEVA, MAY - JUNE 1976, THE ILO'S COMMITTEE ON FREEDOM OF ASSOCIATION NOTED THAT IN SPITE OF URUGUAYAN MINISTER OF LABOR STATEMENTS, NO PRACTICAL STEPS TO NORMALIZE THE TRADE UNION SITUATION IN URUGUAY HAD OCCURRED, BUT THAT THE GOVERNMENT HAD RESPONDED TO ILO REQUESTS FOR INFORMATION AND WOULD FURNISH MORE RESPONSES AT AN EARLY DATE. FOR THE TIME BEING THE COMMITTEE DECIDED TO CONFINE ITSELF TO OBSERVING THE EVOLUTION OF THE TRADE UNION SITUATION.

FREEDOM HOUSE LISTS URUGUAY AN "PARTLY FREE".

THE SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS OF THE HOUSE INTERNATIONAL RELATIONS COMMITTEE HELD A SERIES OF HEARINGS ON HUMAN RIGHTS IN URUGUAY. AMNESTY INTERNATIONAL TESTIFIED AS WELL AS OTHER PUBLIC WITNESSES INCLUDING URUGUAYAN EX-PARLIAMENTARIAN WILSON FERREIRA. THE DEPARTMENT OF STATE TESTIFIED AUGUST 4. THE PUBLIC WITNESSES AND SOME MEMBERS OF THE COMMITTEE BELIEVE THERE ARE GROSS VIOLATIONS OF HUMAN RIGHTS IN URUGUAY. UNQUOTE. ROBINSON

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